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PITTSBURGH PA 15275-1112

Paper No. 12

MAILED

MAY 21 2010

OFFICE OF PETITIONS

In re Patent No. 6,025,490  
Issue Date: February 15, 2000  
Application No. 09/022,337  
Filed: February 11, 1998  
Attorney Docket No. 10032-PJJ

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed February 4, 2010, and supplemented April 19, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

**Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, the statement must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest if there is an assignee of record of an undividing part interest; or
- (5) All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If the instant petition is on the behalf of the assignee, petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Additionally, petitioner is cautioned to send in a newly executed petition with a signature date concurrent or later than the 3.73(b) statement. A 3.73(b) statement only establishes the authority to sign the petition as of the date of that statement and is not retroactive to a previous petition.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record

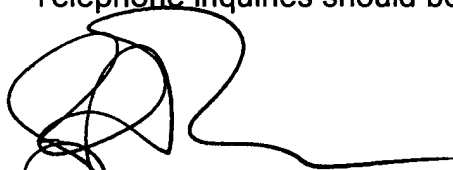
Further correspondence with respect to this matter should be addressed as follows:

By Mail:                Mail Stop PETITION  
                              Commissioner for Patents  
                              Post Office Box 1450  
                              Alexandria, VA 22313-1450

By hand:                U. S. Patent and Trademark Office  
                              Customer Service Window, Mail Stop Petitions  
                              Randolph Building  
                              401 Dulany Street  
                              Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', with a long horizontal line extending to the right.

JoAnne Burke  
Petitions Examiner  
Office of Petitions

cc:     Raymond A. Miller  
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         Pittsburgh, PA 15219